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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,253	05/10/2005	Hitoshi Iochi	L9289.05130	4974
53989 7590 06/27/2008 DICKINSON WRIGHT PLLC 1901 L STREET NW SUITE 800 WASHINGTON, DC 20036				
EXAMINER				
SOBUTKA, PHILIP				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
06/27/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/534,253

**Applicant(s)**

IOCHI ET AL.

**Examiner**

PHILIP J. SOBUTKA

**Art Unit**

2618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-14 and 16-22 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
- Paper No(s)/Mail Date 5/10/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Information Disclosure Statement***

2. The information disclosure statement filed May 10, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims xxx are rejected under 35 U.S.C. 102(e) as being anticipated by Seguin (US 2002/0021714).

Consider claim 10. Seguin teaches a communication terminal apparatus that multiplexes data of a first channel that is subject to transport format combination selection and data of a second channel that is not subject to said transport format

combination selection (see paragraph 28), said communication terminal apparatus comprising:

a resource allocation section that allocates a resource of said first channel and a resource of said second channel so that the total transmission power of said first channel and said second channel does not exceed the maximum transmission power transmissible by said communication terminal apparatus (see paragraphs 11,12,29); and

a transport format combination (TFC) selection section that selects a transport format combination transmissible within a range of the resource of said first channel allocated by said resource allocation section (see paragraphs 28,30).

Consider claim 11. Seguin teaches the apparatus of claim 10, wherein said resource allocation section secures preferentially one of the resource of said first channel and the resource of said second channel and allocates the other one of the resource of said first channel and the resource of said second channel (see paragraphs 4-9, 28,29).

Consider claim 12. Seguin teaches the apparatus of claim 10, wherein when there is a plurality of second channels, said resource allocation section first secures a resource for a predetermined one of said second channels and allocates a remaining resource to a channel other than said predetermined one of said second channels (see paragraphs 4-9, 28,29).

Consider claim 13. Seguin teaches the apparatus of claim 11, wherein when there is a plurality of second channels, said resource allocation section first secures a

resource for a predetermined one of said second channels and allocates a remaining resource to a channel other than said predetermined one of said second channels (see paragraphs 4-9, 28,29).

Consider claim 14. Seguin teaches the apparatus of claim 10, further comprising: a transmission status monitor section that monitors the presence or absence of information transmitted from said second channel and outputs to said resource allocation section an information amount of the information transmitted from said second channel in the past, wherein:

said resource allocation section allocates the resource of said second channel based on said information amount (see paragraphs 30-42).

Consider claim 16. Seguin teaches the apparatus of claim 10, wherein said resource allocation section allocates the resource of said first channel and the resource of said second channel for each transport format combination (see paragraphs 30-42).

Consider claim 17. Seguin teaches the apparatus of claim 11, wherein said resource allocation section determines which one of the resource of said first channel and the resource of said second channel is to be allocated preferentially according to a kind of information transmitted from said second channel (see paragraphs 30-42).

Consider claim 18. Seguin teaches the apparatus of claim 17, wherein when the information transmitted from said second channel is used in scheduling, said resource allocation section preferentially secures the resource of said first channel (see paragraphs 30-42).

Consider claim 19. Seguin teaches a transmission power control method of a communication terminal apparatus that multiplexes data of a first channel that is subject to transport format combination selection and data of a second channel that is not subject to said transport format combination selection (see paragraph 28), said transmission power control method comprising:

allocating a resource of said first channel and a resource of said second channel so that the total transmission power of said first channel and said second channel does not exceed the maximum transmission power transmissible by said communication terminal apparatus (see paragraphs 4-9, 28,29); and

controlling the transmission power of said first channel and the transmission power of said second channel within a range of the allocated resources (see paragraphs 4-9, 28,29).

Consider claim 20. Seguin teaches the method of claim 19, wherein the resource allocation comprises securing preferentially one of the resource of said first channel and the resource of said second channel and allocating the other one of the resource of said first channel and the resource of said second channel (see paragraphs 30-42).

Consider claim 21. Seguin teaches the method of claim 19, wherein when there is a plurality of said second channels, the resource allocation comprises first securing a resource for a predetermined one of said second channels and allocating a remaining

resource to a channel other than said predetermined one of said second channels (see paragraphs 30-42).

Consider claim 22. Seguin teaches the method of claim 20, wherein when there is a plurality of said second channels, the step of resource allocation comprises first securing a resource for a predetermined one of said second channels and allocating a remaining resource to a channel other than said predetermined one of said second channels (see paragraphs 30-42).

***Allowable Subject Matter***

5. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider claim 15. The nearest prior art as shown in Seguin fails to teach the apparatus of claim 14, wherein: the transmission status monitor section calculates a transmission status coefficient, which is a ratio of time in which information is transmitted from the second channel with respect to a predetermined period, and outputs the transmission status coefficient to the resource allocation section; and the resource allocation section calculates the resource of the second channel by multiplying the transmission power of a dedicated control channel by a predetermined offset value and the transmission status coefficient.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Sobotka whose telephone number is 571-272-7887. The examiner can normally be reached Monday through Friday from 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4711.

7. The central fax phone number for the Office is 571-273-8300.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number.

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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/Philip J Sobutka/

Primary Examiner, Art Unit 2618

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